

FIRST REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 39

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS CAUTHORN, GROSS, KLINDT AND NODLER.

Pre-filed December 1, 2002, and 1,000 copies ordered printed.

Read 2nd time January 13, 2003, and referred to the Committee on the Judiciary and Civil and Criminal Jurisprudence.

Reported from the Committee March 20, 2003, with recommendation that the bill do pass with Senate Committee Amendment No. 1.

Taken up for Perfection April 15, 2003. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0072S.01P

AN ACT

To repeal sections 190.300, 190.305, 190.310, 190.335, 190.400, 190.410, 190.420, 190.430, 190.440, 195.211, 650.320, and 650.330, RSMo, and to enact in lieu there of fourteen new sections relating to emergency services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 190.300, 190.305, 190.310, 190.335, 190.400, 190.410, 190.420, 190.430, 190.440, 195.211, 650.320, and 650.330, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be know as sections 190.300, 190.304, 190.305, 190.310, 190.312, 190.335, 190.430, 195.211, 195.215, 577.075, 650.320, 650.330, 650.350, and 1 to read as follows:

190.300. As used in sections 190.300 to 190.320, the following terms and phrases mean:

- (1) "Emergency telephone service", a telephone system utilizing a single three digit number "911" for reporting police, fire, medical or other emergency situations;
- (2) "Emergency telephone tax", a tax to finance the operation of emergency telephone service;
- (3) "Exchange access facilities", all facilities provided by the service supplier for local telephone exchange access to a service user;
- (4) "Governing body", the legislative body for a city, county or city not within a county;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

(5) "Person", any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau or fraternal organization, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user;

(6) "Public agency", any city, county, city not within a county, municipal corporation, public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical, or other emergency services;

(7) "Service supplier", any person providing exchange telephone services to any service user in this state;

(8) "Service user", any person, other than a person providing pay telephone service pursuant to the provisions of section 392.520, RSMo, not otherwise exempt from taxation, who is provided exchange telephone service in this state;

(9) "Tariff rate", the rate or rates billed by a service supplier to a service user as stated in the service supplier's tariffs, approved by the Missouri public service commission which represent the service supplier's recurring charges for exchange access facilities or their equivalent, exclusive of all taxes, fees, licenses or similar charges whatsoever;

(10) "Wireless service supplier", any person providing wireless telephone services to any wireless service user in this state;

(11) "Wireless service user", any person who uses a wireless telephone service in this state. For the purposes of sections 190.300 to 190.320, any imposition of a tax shall be in accordance with the Federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

190.304. 1. In addition to its other powers for the protection of the public health, a governing body of a county or a city not within a county may, by a majority vote of its members, choose to submit to a vote of the qualified voters of the county or a city not within a county a ballot containing either of the two proposals pursuant to subdivisions (1) and (2) of this subsection to provide for the operation of an emergency telephone service. In no case shall a governing body be permitted to enact provisions of both subdivisions (1) and (2) of this subsection, whether in simultaneous elections or by separate elections. If the governing body so chooses, by a majority vote of its members, it may submit:

(1) A proposition to the qualified voters of the county or a city not within a county to levy a tax in an amount equal to the average levied tax per line for wire lines in such county or such city not within a county in the current year based on the tax on the tariff rate authorized in section 190.305 for each access line or device

which has an assigned mobile identification number containing an area code assigned to Missouri by the North American Numbering Plan Administrator in such county or a city not within a county. If a majority of the qualified voters of the county or a city not within a county adopt the provision in this subdivision, such tax shall be in addition to the tax authorized pursuant to section 190.305. The tax authorized pursuant to this subdivision shall be in lieu of any tax authorized and adopted pursuant to sections 190.325 to 190.329. The governing body of the county shall certify to the office of administration the amount of the average levied tax per line for wire lines in such county or city not within a county; or

(2) A proposition to the qualified voters of the county or a city not within a county to levy a tax in an amount up to fifty cents per month on each access line user or device which has an assigned mobile identification number containing an area code assigned to Missouri by the North American Numbering Plan Administrator in such county or a city not within a county, plus a tax of up to fifty cents per access line per month for wired telephone services in such county or a city not within a county. If a majority of the qualified voters of the county or a city not within a county adopt the provision in this subdivision, the approved taxes shall be in lieu of the tax authorized pursuant to section 190.305 and in lieu of the tax authorized pursuant to sections 190.325 to 190.329. The taxes authorized pursuant to this subdivision shall not exceed fifty cents and shall be equal to one another.

2. The taxes collected pursuant to this section shall be utilized to pay for the operation of emergency telephone service and the operational costs associated with the answering and dispatching of emergency calls as deemed appropriate by the governing body and for no other purpose, except as provided in subsection 3 of this section. Collection of such taxes shall not begin prior to twelve months before the operation upgraded to facilities which implement phase I enhanced 911 services as described in Federal Communications Docket 94-102, or in counties which do not have a functioning emergency telephone service and dispatch center the collection of such taxes shall not begin prior to twenty-seven months before operation of such emergency telephone service and dispatch center.

3. Any county or city not within a county which has not implemented service pursuant to the requirements of subsection 2 of this section shall immediately cease collection of such tax, and if the county or city not within a county fails to implement such service within twelve months thereafter, the governing body of such county or city not within a county shall remit all taxes collected pursuant to this section to the state treasurer to be deposited in the 911 emergency services fund created pursuant to section 190.312.

4. Every billed service user or wireless service user is liable for the taxes until it has been paid to the service supplier.

5. The duty to collect the tax from a service user or wireless service user shall commence at such time as specified by the governing body in accordance with the provisions of sections 190.300 to 190.320. The tax required to be collected by the service supplier or wireless service supplier shall be added to and shall be stated separately in the billings to the service user or wireless service user.

6. Nothing in this section imposes any obligation upon a service supplier or wireless service supplier to take any legal action to enforce the collection of the tax imposed by this section unless the charges for wireless service are unpaid. The service supplier or wireless service supplier shall provide the governing body with a list of amounts uncollected along with the names and addresses of the service users or wireless service users refusing to pay the tax imposed by this section, if any.

7. The tax imposed by this section shall be collected insofar as practicable at the same time as, and along with, the charges for the wireline or wireless service in accordance with the regular billing practice of the service supplier.

8. The state auditor shall have the authority to perform audits of receipts and expenditures of taxes collected pursuant to this section to determine whether such taxes are being properly administered for the operational costs of administering emergency telephone services.

190.305. 1. In addition to its other powers for the protection of the public health, a governing body may provide for the operation of an emergency telephone service and may pay for it by levying an emergency telephone tax for such service in those portions of the governing body's jurisdiction for which emergency telephone service has been contracted. The governing body may do such other acts as are expedient for the protection and preservation of the public health and are necessary for the operation of the emergency telephone system. The governing body is hereby authorized to levy the tax in an amount not to exceed fifteen percent of the tariff local service rate, as defined in section 190.300, or seventy-five cents per access line per month, whichever is greater, except as provided in sections 190.325 to 190.329, in those portions of the governing body's jurisdiction for which emergency telephone service has been contracted. In any county of the third classification with a population of at least thirty-two thousand but not greater than forty thousand that borders a county of the first classification, a governing body of a third or fourth class city may, with the consent of the county commission, contract for service with a public agency to provide services within the public agency's jurisdiction when such city is located wholly within the jurisdiction of the public agency. Consent shall be demonstrated by the county commission authorizing an election within the public agency's jurisdiction pursuant to section 190.320. Any contract between governing bodies and public agencies in existence on August 28,

1996, that meets such criteria prior to August 28, 1996, shall be recognized if the county commission authorized the election for emergency telephone service and a vote was held as provided in section 190.320. The governing body shall provide for a board pursuant to sections 190.327 and 190.328.

2. The tax shall be utilized to pay for the operation of emergency telephone service and the operational costs associated with the answering and dispatching of emergency calls as deemed appropriate by the governing body **and for no other purpose**, and may be levied at any time subsequent to execution of a contract with the provider of such service at the discretion of the governing body, but collection of such tax shall not begin prior to twenty-seven months before operation of the emergency telephone service and dispatch center.

3. Such tax shall be levied only upon the tariff rate. No tax shall be imposed upon more than one hundred exchange access facilities or their equivalent per person per location.

4. Every billed service user is liable for the tax until it has been paid to the service supplier.

5. The duty to collect the tax from a service user shall commence at such time as specified by the governing body in accordance with the provisions of sections 190.300 to 190.320. The tax required to be collected by the service supplier shall be added to and may be stated separately in the billings to the service user.

6. Nothing in this section imposes any obligation upon a service supplier to take any legal action to enforce the collection of the tax imposed by this section. The service supplier shall provide the governing body with a list of amounts uncollected along with the names and addresses of the service users refusing to pay the tax imposed by this section, if any.

7. The tax imposed by this section shall be collected insofar as practicable at the same time as, and along with, the charges for the tariff rate in accordance with the regular billing practice of the service supplier. The tariff rates determined by or stated on the billing of the service supplier are presumed to be correct if such charges were made in accordance with the service supplier's business practices. The presumption may be rebutted by evidence which establishes that an incorrect tariff rate was charged.

8. The state auditor shall have the authority to perform audits of receipts and expenditures of taxes collected pursuant to this section to determine whether such taxes are being properly administered for the operational costs of administering emergency telephone services.

190.310. 1. The [tax] **taxes** imposed by sections 190.300 to 190.320 and the amounts required to be collected are due [quarterly] **monthly**. The amount of [tax] **taxes** collected in one [calendar quarter] **month** by the service supplier **or wireless service supplier** shall be remitted to the governing body no later than [sixty] **thirty** days after the close of a [calendar quarter] **month**. On or before the [sixtieth] **thirtieth** day of each [calendar quarter] **month**

following, a return for the preceding [quarter] **month** shall be filed with the governing body in such form as the governing body and service supplier **or wireless service supplier** shall agree. The service supplier **or wireless service supplier** will include the list of any service user **or wireless service user** refusing to pay the [tax] **taxes** imposed by sections 190.300 to 190.320 with each return filing. The service supplier **or wireless service supplier** required to file the return shall deliver the return, together with a remittance of the amount of the [tax] **taxes** collected under the provisions of sections 190.300 to 190.320. The records shall be maintained for a period of one year from the time the [tax] **taxes** is collected.

2. From every remittance to the governing body made on or before the date when the same becomes due, the service supplier **or wireless service supplier** required to remit the same shall be entitled to deduct and retain, as a collection fee, an amount equal to two percent thereof.

3. **Every remittance to the governing body which is not paid within thirty days of the due date thereof by the service supplier or wireless service provider shall accrue interest at the rate of one percent per month for which such payment is overdue.**

4. **Nothing in this section shall prevent the governing body and the service supplier or wireless service supplier from entering into an agreement for an alternate remittance schedule which in no event shall require payments less frequently than quarterly.**

5. **For any county collecting the tax authorized pursuant to section 190.305,** at least once each calendar year, the governing body shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by sections 190.300 to 190.320. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The governing body shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in sections 190.300 to 190.320. Immediately upon making its determination and fixing the rate, the governing body shall publish in its minutes the new rate, and it shall notify by mail every service supplier registered with it of the new rate. The governing body may require an audit of the service supplier's books and records concerning the collection and remittance of the tax authorized by sections 190.300 to 190.320.

6. **Twenty percent of the taxes collected pursuant to any tax levied for wireless services pursuant to section 190.304, subject to the provisions of subsection 7 of this section, shall be collected by the governing body of the county or city not within a county levying the tax and forwarded each quarter to the department of revenue to be deposited in the 911 emergency services fund, which is created pursuant to section 190.312.**

7. When at least sixty percent of the counties comprising at least seventy-five percent of the population in this state have enacted a tax pursuant to this section, the percentage of such taxes being deposited in the 911 emergency services fund shall be reduced from twenty percent to ten percent, and two calendar years after the office of administration verifies passage of the tax authorized pursuant to section 190.304 in ninety percent of the counties in the state, the percentage deposited in the 911 emergency services fund shall be eliminated.

190.312. 1. There is hereby created in the state treasury the "911 Emergency Services Fund", which shall consist of moneys collected pursuant to subsection 6 of section 190.310. The fund shall be administered by the office of administration in consultation with the department of public safety.

2. Cost for administering such program created pursuant to this section shall be paid from the 911 emergency services fund.

3. Other than costs for administration, moneys in the fund shall be used solely for matching grants to counties or a city not within a county for the purpose of implementation of a comprehensive statewide 911 system.

4. Only counties or a city not within a county which have authorized a tax pursuant to section 190.304 shall be eligible to receive grants from the 911 emergency services fund.

5. Any county or city not within a county receiving a grant pursuant to this section shall be required to match at least twenty-five percent of such grant with local funds.

6. No county or city not within a county shall receive grants in excess of five percent of the total funds available in any fiscal year or receive grants for longer than three consecutive years.

7. Grants may be made on a collective basis to counties which enter into an inter-county agreement to provide services.

8. The office of administration shall promulgate rules for the implementation and administration of grants from the 911 emergency services fund.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

10. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

11. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

190.335. 1. In lieu of the tax levy authorized under section **190.304** or 190.305 for emergency telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as "emergency services", and which may also include the purchase and maintenance of communications and emergency equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of (insert name of county) impose a county sales tax of (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

YES

NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo. The sales tax shall not be collected

prior to thirty-six months before operation of the central dispatching of emergency services.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the governing body shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The governing body shall make its determination of such tax rate each year no later than September first and shall fix the new rate which shall be collected as provided in this act. Immediately upon making its determination and fixing the rate, the governing body shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, who shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, any other emergency services and the general public. This initial board shall serve until its successor board is duly elected and installed in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large, such member to be the chairman of the board. Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years.

190.430. [1. The commissioner of the office of administration is authorized to establish a fee, if approved by the voters pursuant to section 190.440, not to exceed fifty cents per wireless

telephone number per month to be collected by wireless service providers from wireless service customers.

2. The office of administration shall promulgate rules and regulations to administer the provisions of sections 190.400 to 190.440. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to the authority delegated in sections 190.400 to 190.440 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to July 2, 1998, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to July 2, 1998, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after July 2, 1998, shall be invalid and void.

3. The office of administration is authorized to administer the fund and to distribute the moneys in the wireless service provider enhanced 911 service fund for approved expenditures as follows:

(1) For the reimbursement of actual expenditures for implementation of wireless enhanced 911 service by wireless service providers in implementing Federal Communications Commission order 94-102; and

(2) To subsidize and assist the public safety answering points based on a formula established by the office of administration, which may include, but is not limited to the following:

(a) The volume of wireless 911 calls received by each public safety answering point;

(b) The population of the public safety answering point jurisdiction;

(c) The number of wireless telephones in a public safety answering point jurisdiction by zip code; and

(d) Any other criteria found to be valid by the office of administration provided that of the total amount of the funds used to subsidize and assist the public safety answering points, at least ten percent of said funds shall be distributed equally among all said public safety answering points providing said services under said section;

(3) For the reimbursement of actual expenditures for equipment for implementation of wireless enhanced 911 service by public safety answering points to the extent that funds are available, provided that ten percent of funds distributed to public safety answering points shall be distributed in equal amounts to each public safety answering point participating in enhanced 911 service;

(4) Notwithstanding any other provision of the law, no proprietary information submitted pursuant to this section shall be subject to subpoena or otherwise released to any person other

than to the submitting wireless service provider, without the express permission of said wireless service provider. General information collected pursuant to this section shall only be released or published in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to an individual wireless service provider.

4. Wireless service providers are entitled to retain one percent of the surcharge money they collect for administrative costs associated with billing and collection of the surcharge.

5. No more than five percent of the moneys in the fund, subject to appropriation by the general assembly, shall be retained by the office of administration for reimbursement of the costs of overseeing the fund and for the actual and necessary expenses of the board.

6. The office of administration shall review the distribution formula once every year and may adjust the amount of the fee within the limits of this section, as determined necessary.

7. The provisions of sections 190.307 and 190.308 shall be applicable to programs and services authorized by sections 190.400 to 190.440.

8.] Notwithstanding any other provision of the law, in no event shall any wireless service provider, its officers, employees, assigns or agents, be liable for any form of civil damages or criminal liability which directly or indirectly result from, or is caused by, an act or omission in the development, design, installation, operation, maintenance, performance or provision of 911 service or other emergency wireless two- and three-digit wireless numbers, unless said acts or omissions constitute gross negligence, recklessness or intentional misconduct. Nor shall any wireless service provider, its officers, employees, assigns, or agents be liable for any form of civil damages or criminal liability which directly or indirectly result from, or is caused by, the release of subscriber information to any governmental entity as required under the provisions of this act unless the release constitutes gross negligence, recklessness or intentional misconduct.

195.211. 1. Except as authorized by sections 195.005 to 195.425 and except as provided in section 195.222, it is unlawful for any person to distribute, deliver, manufacture, produce or attempt to distribute, deliver, manufacture or produce a controlled substance or to possess with intent to distribute, deliver, manufacture, or produce a controlled substance.

2. Any person who violates or attempts to violate this section with respect to manufacturing or production of a controlled substance of any amount in a residence where a child resides or within two thousand feet of the real property comprising a public or private elementary or public or private elementary or secondary school, public vocational school or a public or private junior college, college or university, is guilty of a class A felony.

[2.] 3. Any person who violates or attempts to violate this section with respect to any controlled substance except five grams or less of marijuana is guilty of a class B felony.

[3.] 4. Any person who violates this section with respect to distributing or delivering not more than five grams of marijuana is guilty of a class C felony.

195.215. 1. A person commits the offense of manufacturing of a controlled substance near schools if such person violates section 195.211 by unlawfully manufacturing any controlled substance within two thousand feet of the real property comprising a public or private elementary or secondary school, public vocational school, or a public or private junior college, college or university, or on any school bus.

2. Violation of the provisions of this section is a class A felony.

577.075. 1. It shall be unlawful for any person not the owner or not in lawful control of an approved container of anhydrous ammonia to release or allow the escape of anhydrous ammonia into the atmosphere.

2. Unlawful release of anhydrous ammonia is a class B felony, unless such release causes death of a human being or causes serious physical injury to any person in which case it is a class A felony.

650.320. For the purposes of sections 650.320 to 650.340, the following terms mean:

(1) "911", the primary emergency telephone number within the wired and wireless telephone system;

[(1)] (2) "Committee", the advisory committee for 911 service oversight established in section 650.325;

[(2)] (3) "Public safety answering point", the location at which 911 calls are initially answered;

[(3)] (4) "Telecommunicator", any person employed as an emergency telephone worker, call taker or public safety dispatcher whose duties include receiving, processing or transmitting public safety information received through a 911 public safety answering point.

650.330. 1. The committee for 911 service oversight shall consist of sixteen members, one of which shall be chosen from the department of public safety who shall serve as chair of the committee and only vote in the instance of a tie vote among the other members, and the other members shall be selected as follows:

(1) One member chosen to represent an association domiciled in this state whose primary interest relates to counties;

(2) One member chosen to represent the Missouri public service commission;

(3) One member chosen to represent emergency medical services;

(4) One member chosen to represent an association with a chapter domiciled in this state whose primary interest relates to a national emergency number;

(5) One member chosen to represent an association whose primary interest relates to issues pertaining to fire chiefs;

(6) One member chosen to represent an association with a chapter domiciled in this state whose primary interest relates to issues pertaining to public safety communications officers;

(7) One member chosen to represent an association whose primary interest relates to issues pertaining to police chiefs;

(8) One member chosen to represent a league or association domiciled in this state whose primary interest relates to issues pertaining to municipalities;

(9) One member chosen to represent an association domiciled in this state whose primary interest relates to issues pertaining to sheriffs;

(10) One member chosen to represent 911 service providers in counties of the second, third and fourth classification;

(11) One member chosen to represent 911 service providers in counties of the first classification, with and without charter forms of government, and cities not within a county;

(12) One member chosen to represent telecommunications service providers with at least one hundred thousand access lines located within Missouri;

(13) One member chosen to represent telecommunications service providers with less than one hundred thousand access lines located within Missouri;

(14) One member chosen to represent a professional association of physicians who conduct with emergency care; and

(15) One member chosen to represent the general public of Missouri who represents an association whose primary interest relates to education and training, including that of 911, police and fire dispatchers.

2. Each of the members of the committee for 911 service oversight shall be appointed by the governor with the advice and consent of the senate for a term of four years; except that, of those members first appointed, four members shall be appointed to serve for one year, four members shall be appointed to serve for two years, four members shall be appointed to serve for three years and four members shall be appointed to serve for four years. Members of the committee may serve multiple terms.

3. The committee for 911 service oversight shall meet at least quarterly at a place and time specified by the chairperson of the committee and it shall keep and maintain records of such meetings, as well as the other activities of the committee. Members shall not be compensated but shall receive actual and necessary expenses for attending meetings of the committee.

4. The committee for 911 service oversight shall:

(1) Organize and adopt standards governing the committee's formal and informal procedures;

(2) Provide recommendations for primary answering points and secondary answering points on statewide technical and operational standards for 911 services;

(3) Provide recommendations to public agencies concerning model systems to be considered in preparing a 911 service plan;

(4) Provide requested mediation services to political subdivisions involved in jurisdictional

disputes regarding the provision of 911 services, except that such committee shall not supersede decision-making authority of local political subdivisions in regard to 911 services;

(5) Provide assistance to the governor and the general assembly regarding 911 services;

(6) Review existing and proposed legislation and make recommendations as to changes that would improve such legislation;

(7) Aid and assist in the timely collection and dissemination of information relating to the use of a universal emergency telephone number;

(8) Perform other duties as necessary to promote successful development, implementation and operation of 911 systems across the state; [and]

(9) Advise the department of public safety and the office of administration regarding the implementation of Federal Communications Docket 94-102 or any subsequent orders on the same or similar subjects;

(10) Advise the department of public safety and the office of administration on the administration of grants from the 911 emergency services fund created pursuant to section 190.312, RSMo, for the purpose of implementing comprehensive statewide 911 services;

[9] **(11)** Advise the department of public safety on establishing rules and regulations necessary to administer the provisions of sections 650.320 to 650.340.

5. The department of public safety shall provide staff assistance to the committee for 911 service oversight as necessary in order for the committee to perform its duties pursuant to sections 650.320 to 650.340.

6. The department of public safety is authorized to adopt those rules that are reasonable and necessary to accomplish the limited duties specifically delegated within section 650.340. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

650.350. 1. There is hereby created within the department of public safety the "Missouri Sheriff Methamphetamine Relief Taskforce" (MoSMART). MoSMART shall be composed of five sitting sheriffs. Every two years, the Missouri sheriffs' association board of directors will submit twenty names of sitting sheriffs to the governor. The governor shall appoint five members from the list of twenty names, having no more than three from any one political party, to serve a term of two years on MoSMART. The members shall elect a chair from among their membership. Members shall receive no compensation for the performance of their duties pursuant to this

section, but each member shall be reimbursed from the MoSMART fund for actual and necessary expenses incurred in carrying out duties pursuant to this section.

2. MoSMART shall meet no less than twice each calendar year with additional meetings called by the chair upon the request of at least two members. A majority of the appointed members shall constitute a quorum.

3. A special fund is hereby created in the state treasury to be know as the "MoSMART Fund". The state treasurer shall invest the moneys in such fund in the manner authorized by law. All moneys received for MoSMART from interest or federal moneys shall be deposited to the credit of the fund. The director of the department of public safety shall distribute at least fifty percent but not more than one hundred percent of the fund annually in the form of grants approved by MoSMART.

4. All moneys appropriated to or received by MoSMART shall be deposited and credited to the MoSMART fund. The department of public safety shall only be reimbursed for actual and necessary expenses for the administration of MoSMART, which shall be no less than one percent and which shall not exceed two percent of all moneys appropriated to the fund. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the MoSMART fund shall not lapse to general revenue at the end of the biennium.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

6. Any county law enforcement entity or established task force with a memorandum of understanding and protocol may apply for grants from the MoSMART fund on an application to be developed by the department of public safety with the approval of MoSMART. All applications shall be evaluated by MoSMART and approved or denied based upon the level of funding designated for methamphetamine enforcement before 1997 and upon current need and circumstances. No applicant shall receive a MoSMART grant in excess of one hundred thousand dollars per year. The department of public safety shall monitor all MoSMART grants.

7. MoSMART's anti-methamphetamine funding priorities are as follows:

(1) Sheriffs who are participating in coordinated multi-jurisdictional task forces and have their task forces apply for funding;

(2) Sheriffs whose county has been designated HIDTA counties, yet have received no HIDTA or narcotics assistance program funding; and

(3) Sheriffs without HIDTA designations or task forces, whose application justifies the need for MoSMART funds to eliminate methamphetamine labs.

Section 1. Any person who pleads guilty to or has been found guilty of any crime involving chapter 195, RSMo, offense that requires a laboratory test, shall be assessed a one hundred fifty dollar surcharge for the reimbursement of the laboratory test.

[190.400. As used in sections 190.400 to 190.440, the following words and terms shall mean:

(1) "911", the primary emergency telephone number within the wireless system;

(2) "Board", the wireless service provider enhanced 911 advisory board;

(3) "Public safety agency", a functional division of a public agency which provides fire fighting, police, medical or other emergency services. For the purpose of providing wireless service to users of 911 emergency services, as expressly provided in this section, the department of public safety and state highway patrol shall be considered a public safety agency;

(4) "Public safety answering point", the location at which 911 calls are initially answered;

(5) "Wireless service provider", a provider of commercial mobile service pursuant to Section 332(d) of the Federal Telecommunications Act of 1996 (47 U.S.C. Section 151 et seq).]

[190.410. 1. There is hereby created in the department of public safety the "Wireless Service Provider Enhanced 911 Advisory Board", consisting of eight members as follows:

(1) The director of the department of public safety or the director's designee who shall hold a position of authority in such department of at least a division director;

(2) The chairperson of the public service commission or the chairperson's designee; except that such designee shall be a commissioner of the public service commission or hold a position of authority in the commission of at least a division director;

(3) Three representatives and one alternate from the wireless service providers, elected by a majority vote of wireless service providers licensed to provide service in this state; and

(4) Three representatives from public safety answering point organizations, elected by the members of the state chapter of the associated public safety communications officials and the state chapter of the National Emergency Numbering Association.

2. Immediately after the board is established the initial term of membership for a member elected pursuant to subdivision (3) of subsection 1 of this section shall be one year and all subsequent terms for members so elected shall be two years. The membership term for a member elected pursuant to subdivision (4) of subsection 1 of this section shall initially and subsequently be two years. Each member shall serve no more than two successive terms unless the member is on the board pursuant to subdivision (1) or (2) of subsection 1 of this section. Members of the board shall serve without compensation, however, the members may receive reimbursement of actual and necessary expenses. Any vacancies on the board shall be filled in the manner provided for in this subsection.

3. The board shall do the following:

(1) Elect from its membership a chair and other such officers as the board deems necessary for the conduct of its business;

(2) Meet at least one time per year for the purpose of discussing the implementation of Federal Communications Commission order 94-102;

(3) Advise the office of administration regarding implementation of Federal Communications Commission order 94-102; and

(4) Provide any requested mediation service to a political subdivision which is involved in a jurisdictional dispute regarding the providing of wireless 911 services. The board shall not supersede decision-making authority of any political subdivision in regard to 911 services.

4. The director of the department of public safety shall provide and coordinate staff and equipment services to the board to facilitate the board's duties.]

[190.420. 1. There is hereby established in the state treasury a fund to be known as the "Wireless Service Provider Enhanced 911 Service Fund". All fees collected pursuant to sections 190.400 to 190.440 by wireless service providers shall be remitted to the director of the department of revenue. The director shall remit such payments to the state treasurer.

2. The state treasurer shall deposit such payments into the wireless service provider enhanced 911 service fund. Moneys in the fund shall be used for the purpose of reimbursing expenditures actually incurred in the implementation and operation of the wireless service provider enhanced 911 system.

3. Any unexpended balance in the fund shall be exempt from the provisions of section 33.080, RSMo, relating to the transfer of unexpended balances to the general revenue fund, and shall remain in the fund. Any interest earned on the moneys in the fund shall be deposited into the fund.]

[190.440. 1. The office of administration shall not be authorized to establish a

fee pursuant to the authority granted in section 190.430 unless a ballot measure is submitted and approved by the voters of this state. The ballot measure shall be submitted by the secretary of state for approval or rejection at the general election held and conducted on the Tuesday immediately following the first Monday in November, 1998, or at a special election to be called by the governor on the ballot measure. If the measure is rejected at such general or special election, the measure may be resubmitted at each subsequent general election, or may be resubmitted at any subsequent special election called by the governor on the ballot measure, until such measure is approved.

2. The ballot of the submission shall contain, but is not limited to, the following language:

Shall the Missouri Office of Administration be authorized to establish a fee of up to fifty cents per month to be charged every wireless telephone number for the purpose of funding wireless enhanced 911 service?

YES

NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

3. If a majority of the votes cast on the ballot measure by the qualified voters voting thereon are in favor of such measure, then the office of administration shall be authorized to establish a fee pursuant to section 190.430, and the fee shall be effective on January 1, 1999, or the first day of the month occurring at least thirty days after the approval of the ballot measure. If a majority of the votes cast on the ballot measure by the qualified voters voting thereon are opposed to the measure, then the office of administration shall have no power to establish the fee unless and until the measure is approved.]

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